IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.606 OF 2004

Milind Shinde ..Applicant

Versus

Anil Bhovad, Editor of Dainik Lok Adhikar & Ors. ..Respondents

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Mr.S.P.Marwadi i/by Ms.S.Sharma for the applicant.

Mr.A.M.Ranpise for Respondent No.1.

Mr.P.N.Karlekar for Respondent Nos.2 & 3.

Mr.V.A.Thorat, Advocate General alongwith Ms.P.H.Kantharia for State.

Coram : R.M.LODHA & R.S.MOHITE,JJ

Date : 21.03.2005.

PC

. By the order dated 6.2.2004, rule was issued and the contemnors were asked to show cause why they should not be punished for criminal contempt of the Court.

2. The contemnors have been served. The first contemnor is personally present. He is represented by Advocate A.M.Ranpise. He raised preliminery objection about the maintainability of this Criminal application. The objection of the contemnors is that in case of a Criminal contempt other than a

contempt referred to in Section 14, the High Court may take action on its own motion or on a motion made by the Advocate General or any other person with the consent in writing to the Advocate General. It is contended on behalf of the contemnors that in the present case, the High Court has not taken action on its own motion. The motion has not been made by the Advocate General nor the Advocate General has given his consent in writing. According to the contemnors, the cognizance taken by this Court on the Criminal application of the private party is not proper and the Criminal application is liable to be dismissed as not maintainable.

3. When the matter came up before us on 15.3.2005, we requested the learned Advocate General to assist the Court and the matter was fixed for today. The learned Advocate General submitted before us that the present Criminal application for criminal contempt of the Court is not competent as it does not meet the statutory requirement of Section 15 of the Contempt of Courts Act 1971. However, he stated before us that the articles published by the first contemnor in the newspaper 'Lok Adhikar' scandalise this Court and amount to 'Criminal contempt' and for that he intends to move the Court.

4. Having considered the matter, we find that there is substance in the objection of the contemnors that

the present Criminal application is not legally competent being not in conformity with Section 15 of the Act of 1971.

5. We, accordingly, dispose of this Criminal application as not maintainable. As and when the motion is made by the learned Advocate General, the Court shall consider whether any action needs to be taken against the contemnors.

6. Order accordingly.

(R.M.LODHA,J)

(R.S.MOHITE,J)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.482 OF 2005

Anil Bhovad ..Applicant

Versus

Milind Shinde & ors. ..Respondents

Mr.A.M.Ranpise for the applicant.

Mr.S.P.Marwadi i/by Ms.S.Sharma for Respondent No.1

Mr.P.N.Karlekar for Respondent Nos.2 & 3.

Mr.V.A.Thorat, Advocate General alongwith
Ms.P.H.Kantharia for State.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 21.03.2005.

PC

. By the separate order passed by us today, Criminal application No.606 of 2004 has been disposed of as not maintainable. As a result thereof, the order dated 17.1.2005 for issuance of non-bailable warrant against the contemnor Anil S.Bhovad does not survive. The non bailable warrant issued to the said contemnor stands cancelled.

(R.M.LODHA,J)

(R.S.MOHITE,J)